

BEST AVAILABLE COPY**REMARKS**

Claims 1-26 are pending. By this Amendment, Applicants amend claims 1, 3, 5, and 15 and add claims 20-26.

The Office Action rejects claims 1-3, 6, 7, 9, 10, 12, 13, and 15 under 35 U.S.C. §102(e) over U.S. Patent 6,392,786 to Albert. Applicants respectfully traverse the rejection.

Albert does not disclose a gaseous medium, within which the particles move, as recited in claims 1-3, 6, 7, 9, 10, 12, 13, and 15. It is clear from the specification and Figures of Albert that the plural colorant particles 116 are sealed in microcapsules 112 containing a liquid 114 (column 2, lines 33-47; column 7, lines 4-62; column 15, lines 51-column 17, line 62; Figures 1-3). As such, the particles of Albert display an image by moving in a liquid medium (column 2, lines 32-47).

Because Albert does not disclose a gaseous medium, within which the particles move, it does not disclose all the features of claims 1-3, 6, 7, 9, 10, 12, 13, and 15. Thus, claims 1-3, 6, 7, 9, 10, 12, 13, and 15 are patentable over Albert under 35 U.S.C. §102(e). As a result, Applicants respectfully request that the rejection be withdrawn.

Claims 1-4, 6, 7, 9, 10, 12, 13, 15-17, and 19 are rejected under 35 U.S.C. §103(a) over U.S. Patent 2,940,847 to Kaprelian in view of Albert. Applicants respectfully traverse the rejection.

The Office Action alleges that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method for manufacturing an image displaying medium of Kaprelian with the teaching of Albert by having the spacer member formed of a resin or an elastic material so as to maintain a distance between the two substrates to provide a necessary stress relief when the pressure is applied to the medium. This is incorrect. In fact, Kaprelian specifically teaches away from the use of any spacer

member fixed between the two substrates, as recited in claims 1-4, 6, 7, 9, 10, 12, 13, 15-17, and 19.

MPEP §2143.01 states that a proposed modification under 35 U.S.C. §103 cannot render the prior art unsatisfactory for its intended purpose. As argued in detail in Applicants' August 20, 2003 response, a spacer member cannot be fixed between the various substrates of Kaprelian (referred to as 62 and 64 in the present Final Rejection) because the substrates must be separated so that the image may be transferred onto a final support (column 3, lines 27-71; column 4, lines 4-50; column 4, line 54-column 5, line 30; Figures 7-14). If any of the substrates were to be fixed with a spacer in between (as recited in claims 1-4, 6, 7, 9, 10, 12, 13, 15-17, and 19) they could not be separated. This argument was considered persuasive in paragraph 2 of the Final Rejection. Thus, the modification proposed by the Rejection would render Kaprelian unsatisfactory for its intended purpose under MPEP §2143.01.

Furthermore, were a spacer member to be fixed between the various substrates of Kaprelian, that spacer member would create a discontinuity in the image formed by the device of Kaprelian. This discontinuity would further render Kaprelian unsatisfactory for its intended purpose under MPEP §2143.01.

Because the proposed modification of the present Rejection would render the prior art unsatisfactory for its intended purpose under MPEP §2143.01, there is no motivation to combine Kaprelian and Albert as suggested by the rejection. Therefore, Applicants respectfully request that the rejection of claims 1-4, 6, 7, 9, 10, 12, 13, 15-17, and 19 be withdrawn.

Claims 5, 8, 11, 14, and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kaprelian in view of Albert and further in view of U.S. Patent 5,558,977 to DePalma et al. (hereinafter "DePalma"). Applicants respectfully traverse the rejection.

The rejection is premised upon the presumption that the combination of Kaprelian and Albert teaches, discloses, or suggests all of the features of claims 1-4, 6, 7, 9 10, 12, 13, 15-17, and 19. Because, as described above, the combination of Kaprelian and Albert does not teach, disclose, or suggest all the features of claims 1-4, 6, 7, 9, 10, 12, 13, 15-17, and 19, the rejection is moot. As such, Applicants respectfully request that the rejection be withdrawn.

By this Amendment, Applicants add claims 20-26 to recite, in part, that the particles are positioned in a defined area so that they are freely moveable within the defined area, and then subsequently sealed into the defined area by, positioning of the second substrate. Support for these claims may be found at least on pages 2-16 of Applicant's specification and in Figures 3a-3d.

Albert, Kaprelian, and DePalma do not disclose, teach, or suggest a method for manufacturing an image displaying medium comprising the steps of providing a first substrate having plural spacers for defining an area, positioning colorant particles into the defined area so that the colorant particles are freely movable within the within the defined area, and positioning a second substrate on to the spacers in order to seal the defined area, as recited in claims 20-26.

As discussed above, the particles in Albert are contained in microcapsules. As such, the particles are not provided in an area defined by a plurality of spacers so that the particles may move freely within the defined area, as recited in claims 20-26, because the microcapsules prevent free movement of the particles within the defined area.

Kaprelian does not disclose positioning a second substrate on to the spacers in order to seal the defined area, as recited in claims 20-26 because, as discussed above the various substrates of Kaprelian cannot be sealed together. Finally, DePalma does not disclose any of the features of claims 20-26.

Applicants respectfully submit that this application is in condition for allowance.

Applicants earnestly solicit favorable reconsideration and prompt allowance of claims 1-26.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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